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C O N F I D E N T I A L SECTION 01 OF 03 MUSCAT 000945

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SUBJECT: FUNDING LEGAL REFORM IN OMAN

REF: MUSCAT 827

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CLASSIFIED BY: Richard Schmierer, Ambassador, Department of State,
Embassy Muscat; REASON: 1.4(B), (D)

¶11. (C) Summary: The USG expends tremendous time, energy, and money to encourage countries to enact laws - to improve human rights, to free trade, or to protect intellectual property; however, without an objective basis of legal interpretation, these laws will not be reflected in actual court judgments. In Oman, we have spent the past 4-5 years convincing the government to enact significant reforms in labor and intellectual property law (both to support the Free Trade Agreement (FTA)) and human rights and trafficking in persons (TIP) law. Without a appropriate follow-up investment in building the legal capacity to render objective judgments regarding the new laws, the gains intended by these policy efforts will not be realized. Further, respect for law will be weakened as Omani citizens see that the progressive laws in their country are inconsistently enforced in court. This would not be because the government of Oman was not sincere in the creation of the laws, but merely because the existing legal system did not have the technical assistance necessary to move from a Shari'a based method to Western-style evidence-based judgments. The Omani government has requested American assistance in this area, and there are no other countries with a Western style legal system working in the judicial reform sector in Oman; the primary legal influence is Egyptian. In order to maximize USG influence on the fair application of the law to everyone, citizen and expatriate, irrespective of religion, we must continue to fund rule of law initiatives here. End Summary.

ABA's Attitude

¶12. (C) Under Middle East Partnership Initiative (MEPI) funding for the past four years, the American Bar Association (ABA) has been the key USG partner in rule of law initiatives in Oman. ABA Country Director Joe McDonough has done an outstanding job establishing relationships in Oman and moving forward a significant and multi-pronged legal reform effort (reftel). Over the past few months, however, the ABA has not been institutionally supportive of his efforts and has not appeared to understand the significance of the ongoing work he is doing. In fact, the ABA has decreed "success" and appears set to move on. It has confirmed that it will no longer support an in-country presence after December 31, 2009, and has limited programming money to Oman in the remaining months of this year. After committing to McDonough that he could spend any money he saved in rent and other expenses on programming, the ABA told him he could not bring in outside experts to conduct training. McDonough is currently working under a no-cost extension on an Oman specific grant; after November 15, he will receive a small amount of funding from the new allocation that MEPI gave to the ABA. We are told that 73% of the ABA's budget for Oman is being spent in Washington. The ABA's lack of support for key host country requested initiatives, its substantial DC-based overhead,

and its lack of support for its own representative are putting at risk the very programs that it has grant money to support.

¶3. (C) ABA and MEPI have insisted that Oman should do more cost sharing in order to prove their dedication to legal reform. McDonough recently readdressed this concern and the Government of Oman has agreed to provide him an office at Sultan Qaboos University, which includes internet access, copying, secretarial help and a shared conference room. Both the Ministry of Justice and the Ministry of Legal Affairs have agreed to provide meeting place, catering, and printing for the workshops conducted for their organizations. For a country without the oil wealth of its neighbors, who will likely run a budget deficit this year, this is a significant investment.

Strategic Significance

¶4. (C) Oman hosted a multi-country seminar on Islamic Jurisprudence in April under the direction of the Grand Mufti. During this conference it was discussed, and supported by both religious and legal arguments, that statutory law formed in Islamic countries already meets the standards of Shari'a; therefore, judges do not need to determine Shari'a interpretation, they need to use evidence-based decision making to uphold statutory law. This type of thinking must be strongly encouraged, as it is the basis of moving Islamic legal systems to a place where civil rule of law truly exists. For people to believe that change is occurring in Oman, they must have a different experience when they go to court. This will only happen when the law is interpreted using objective

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criteria.

¶5. (C) McDonough is currently teaching at Sultan Qaboos University's Law School, the first Westerner or non-Arab to teach there (roughly 50% of the current staff, as well as, the current dean, are Egyptian). This position, in addition to granting him ongoing legal status in country, providing office space and potentially some salary (depending on grant restrictions), gives him the ability to understand and engage in legal reform across the entire legal system of Oman. McDonough has been working on beginning a Legal Clinic at the school, which would be the first one in the region. He has garnered support for this effort, but ongoing education and planning will be needed to bring it to fruition. The Judicial Training Institute is slated to open in December or January, and McDonough's advice is frequently sought on curriculum and training. With an entire judiciary trained to date only in Shari'a law and the process in progress to modify legal decision making to reflect true rule of law, the USG must maintain a presence that will allow continuing influence in this area.

¶6. (C) Sources indicate that a meeting this week between the Director of Training at the Ministry of Justice and the Minister of Justice revealed deep concerns about training conducted by Egyptian lawyers, and the Minister specifically stated his preference for American training. This preference was conveyed to McDonough. The Ministry of Justice has requested additional training and workshops in the following areas:

- Advanced Train the Trainer class - develop materials, specific checklists, etc. This would build on May's training classes;
- A second beginner Train the Trainer class taught by the graduates of the advanced class;
- Workshop on how to enforce civil judgments passed in court (very important for commercial law and thus for FTA implementation) - McDonough talked to the deputy Minister of Justice in Bahrain and

he is willing to come and speak on this topic;

- Training on how to handle evidence issues, especially if it involves science (DNA, etc.);
- Training on court management;
- Computer training ;
- Further training on mediation - especially in family law cases; and
- Administrative training on how to run the Judicial Training Center;

¶17. (C) The U.S. style bench book on labor law that was funded under a MEPI local grant was finished and printed last month. In order to effectively utilize this resource, we will need a workshop and roll-out to launch it, another area where McDonough's expertise will be crucial. He also has plans to work with Omani legal experts to create additional bench books in key areas of USG interest: women's rights, and intellectual property rights.

Risking Relapse

¶18. (C) While ABA views their work in Oman as being done, in fact, the groundwork has been laid, but the majority of the substantive work is yet to be completed. If the USG does not continue to fund legal reform in Oman, we risk others (likely Egyptians embedded in the legal system here) building on our work and filling the institutions and forms that we have helped create with substantive training that does not meet international or U.S. standards for good governance and rule of law. If we refuse to help after the Omanis specifically asked for on-going U.S. involvement, it will be perceived as a lack of engagement and commitment to the rule of law here.

Intelligent Investment

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¶19. (C) The Embassy urges in the strongest terms that MEPI fund an Oman specific grant for legal reform. This grant should run for a minimum of three years to allow for the continuation of this crucial work. In order to achieve these goals, we estimate that the grant would need to be for \$1.5 M (\$200,000/year for an in country presence, \$300,000/year for programming). The Embassy understands that this would need to be an open grant. However, it opposes this money going to ABA and will strongly support the funding going via another viable organization to support the work of Joe McDonough (strictly protect). McDonough is uniquely integrated into the Omani legal system, and has proven himself to the Omanis as someone they can consult with to learn the intricacies of moving to a more objective legal system. Further, McDonough's commitment to Oman is clear as he has accepted a position teaching here with the intent of remaining at his own expense when the current grant is done.

¶10. (C) Comment: To engage in rule of law efforts in Oman in the next five years, this is the only way forward. Both post and the MEPI regional office have discussed funding these activities with local grants; however, with the scope of needed activities, there is not enough money available via this avenue. As the USG has already expended significant funds to initiate the rule of law program in Oman, we believe walking away at a crucial juncture

would be misguided. Although there have been delays in the Omani implementation of key initiatives, as we have observed in other areas, Oman wants to do things right and always gets things done in the end. Patience during the process is rewarded by carefully built institutions with buy-in by key stakeholders. End Comment.
Schmierer